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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/889,378 | 07/16/2001 | Morio Yoshimoto | 1163-0346P | 2948 |

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EXAMINER

HOOSAIN, ALLAN

ART UNIT PAPER NUMBER

2645

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/889,378

Applicant(s)

YOSHIMOTO ET AL.

Examiner

Allan Hoosain

Art Unit

2645

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-20.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Allan Hoosain
Allan Hoosain
Primary Examiner
Art Unit: 2645

Continuation of 2. NOTE: The amendment changes the scope of the limitations by removing Intended Use. This removal raises new issues because it was not presented earlier. The limitations require a new search.

Continuation of 10. Other: Response to Remarks:

Examiner respectfully disagrees that the 'for' in the limitations do not teach Intended Use. This is because the 'for' in both (i) and (ii) of the arguments means 'doing something'. The argument with respect to (ii) must be taken in context with the transmission control unit. In this context it can be seen that the 'for' in (ii) is 'Intended Use' because the transmission control unit is used 'for selecting'. With respect to (i), Examiner respectfully believes that the cited MPEP Section 2173.05(g) applies to 'structures'. The 'for' in (i) does not relate to any structure of the line state monitoring unit.

Examiner respectfully believes that the argument with respect to monitoring QOS for data transfers is not directed towards the claims. This is because the claims recite monitoring line state quality. Shaffer '490 suggests monitoring plural lines at Col. 4. It monitors the line state of a single line which can be used for both video and data and an additional line for video alone.

Examiner also records a telephone interview with Applicants' Representative, Mr. Rhodes on 11/30/04. Examiner advised Mr. Rhodes that he will issue an Advisory and that the amendments will not be entered. Examiner also reminded Mr. Rhodes that Shaffer '668 clearly teaches monitoring plural lines and it can be combined with Shaffer '490 to achieve the limitations. Mr. Rhodes with consult with Applicants and submit a formal response.